

M. ROBERT KESTENBAUM, LLC
PATENT AND TRADEMARK MATTERSRECEIVED
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JUN 14 2006

FACSIMILE TRANSMITTAL SHEET

TO:	FROM:
Examiner Etienne LeRoux	M. Robert Kestenbaum
COMPANY:	DATE:
Commissioner for Patents	4/14/2006
FAX NUMBER:	TOTAL NO. OF PAGES INCLUDING COVER:
(571) 273 8300	18
PHONE NUMBER:	SENDER'S REFERENCE NUMBER:
(571) 272 4022	(Z) 98003 P US CIP
RE:	YOUR REFERENCE NUMBER:
Amendment	09/934,817 (Wagner)

NOTES/COMMENTS:

Attention: Technology Center 2161:


Please direct this Petition to Withdraw the Holding of Abandonment to the appropriate individual for review.

I am faxing a Petition to Withdraw the Holding of Abandonment mailed from the USPTO on May 23, 2006. A bona fide attempt to respond, and I respectfully believe, a complete response was submitted by fax (including fax certification) on May 15, 2006 (a Monday). A fax receipt was received from the USPTO after transmission. Please withdraw the Holding of Abandonment and forward this Amendment for review by the Examiner.

Included herewith: Cover Sheet (1 page)
Petition to Withdraw the Holding of Abandonment (2 pages)
Copy of Notice of Abandonment (2 pages)
Copy of Amendment submitted on 5/15/2006 (11 pages)
Fax Receipt from sending fax machine showing 05/15/2006 transmission (1 page)
Duplicate Copy of PTO 2038 (1 page)
USPTO Auto-Reply Facsimile Transmission dated 5/15/06 (1 page)
Total: 19 pages

Thank you for your time in considering this submission.

Sincerely,


M. Robert Kestenbaum

11011 BERMUDA DUNES NE
ALBUQUERQUE, NEW MEXICO USA 87111
PHONE (505) 323-0771
FAX (505) 323-0865

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JUN 14 2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re: US Patent Application 09/934,817
Filed August 21, 2001
Applicant Wagner et al.
Art Unit 2161
Examiner Etienne (Steve) LeRoux
Telephone (571) 272-4022
Attorney Docket (Z) 98003 P US CIP

Attention: Technology Center 2800
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Petition to Withdraw Holding of Abandonment Under
37 CFR 1.181(a) and MPEP 7011.03(c) I

Dear Group 2800 Director:

This application was abandoned by notice mailed May 23, 2006 for failure to respond to the Office Action mailed November 14, 2005.

Applicant fully responded to the November 14, 2005 Office Action on May 15, 2005 (a Monday). Applicant's response was a bona fide attempt to respond to the November 14, 2005 Office Action, and Applicant respectfully believes that the response was a complete response. The response included a request for a three-month extension of time in which to respond to the Office Action, and PTO Form 2038 authorizing payment of the extension fee. Applicant's response included a fax conveyance and certification of submission by fax. A copy of the returned receipt for the fax, received from the USPTO after the fax transmission was complete, is included herewith. That USPTO Fax acknowledgement bears a USPTO receipt date of May 15, 2005.

Enclosed is a duplicate copy of Applicant's response faxed on May 15, 2005.

US Patent Application 09/934,817 Wagner et al. (Z) 98003 P US CIP
Petition to Withdraw Abandonment submitted 06/14/06 by fax; Notice of Abandonment Mailed from USPTO on 05/23/2005

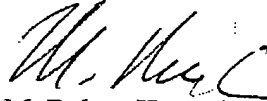
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Applicant requests the Withdrawing the Holding of Abandonment pursuant to 37 CFR 181.1(a) as discussed in MPEP 7011.03(c).

Wherefore, we respectfully petition that the Notice of Abandonment be withdrawn.

Respectfully submitted,



M. Robert Kestenbaum
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Phone (505) 323-0771
Fax (505) 323-0865

CERTIFICATE OF Submission by Facsimile Transmission

I hereby certify under 37 CFR §1.8(a) that this correspondence is submitted to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on by facsimile transmission on June 14, 2006, fax number (571) 273 8300.



M. Robert Kestenbaum

US Patent Application 09/934,817 Wagner et al. (Z) 98003 P US CIP
Petition to Withdraw Abandonment submitted 06/14/06 by fax; Notice of Abandonment Mailed from
USPTO on 05/23/2005

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UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/934,817	08/21/2001	Christian Wagner	(Z) 98003 P US	9363

7590 05/23/2006
M. Robert Kestenbaum
11011 Bermuda Dunes NE
Albuquerque, NM 87111

EXAMINER

LEROUX, ETIENNE PIERRE

ART UNIT	PAPER NUMBER
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2161

DATE MAILED: 05/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

JUN 14 2006

Notice of Abandonment

Application No.

09/934,817

Examiner

Etienne P. LeRoux

Applicant(s)

WAGNER ET AL.

Art Unit

2161

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 14 November 2005.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☒ The reason(s) below:

Mr. Robert Kestenbaum did not respond to telephonic inquiry.



Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

U.S. Patent and Trademark Office
PTOL-1432 (Rev. 04-01)

Notice of Abandonment

Part of Paper No. 5/17/2006

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